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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 27.03.2024

CORAM:

THE HONOURABLE **MR.JUSTICE D.KRISHNAKUMAR**
AND
THE HONOURABLE **MR.JUSTICE R.VIJAYAKUMAR**

W.A.(MD)No.640 of 2024
and
C.M.P.(MD)No.4606 of 2024

1.S.Mohamed Bakkeer Sulthan
2.S.Syed Sirajudeen Levvai
3.Z.Sathik Batcha Levvai ... Appellants

-Vs-

1.S.Jameen Abdul Gafoor Levvai

2.The District Collector,
Office of the District Collector,
Ramanathapuram District.

3.The Revenue Divisional Officer,
Ramanathapuram, Ramanathapuram District.

4.The Tahsildar,
Office of the Tahsildar,
Keelakkarai Taluk, Ramanathapuram District.

5.Kittange P.S.Syed Ibrahim ... Respondents

PRAYER: Appeal filed under Clause 15 of Letters Patent, praying this Court to set aside the order dated 21.03.2024 passed in W.P.(MD)No.6805 of 2024 on the file of this Court.

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For Appellants : Mr.J.Barathan
For R1 : Ms.H.Jasima Yasmin,
for M/s.Ajmal Associates
For R2 to R4 : Mr.N.Satheesh Kumar,
Additional Government Pleader

JUDGMENT

[Judgment of the Court was delivered by *D.KRISHNAKUMAR, J.*]

This Writ Appeal is directed against the order dated 21.03.2024 made in W.P.(MD)No.6805 of 2024 on the file of this Court.

2.The Writ Court, while passing the order, held as follows:-

"2.It is not in dispute that the Sub Court, Ramanathapuram passed scheme decree dated 27.04.1989 in O.S.No.236 of 1978. A scheme Court will never become functus officio. Whenever any issue arises as to the implementation of the scheme, an Interlocutory Application can be filed and the scheme Court has to decide the same.

3. The issue raised in the writ petition is regarding the manner of conducting the Santhanakoodu festival at Ervadi Dharga. The petitioner wants this Court to appoint an Advocate Commissioner to conduct the festival as per the petitioner's customs and usage. It may not be open to the writ Court to undertake an enquiry.

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4. I therefore relegate the petitioner to move the scheme Court. The petitioner can file an Interlocutory Application before the Scheme Court (Sub Court, Ramanathapuram).

5.The learned counsel appearing for the petitioner states that such an Interlocutory Application will be filed on 25.03.2024. The scheme Court is directed to number the same immediately and take it on file. In the said Interlocutory Application, it is enough that the respondents 4 to 6 in this writ petition alone are shown as respondents. Any other interested persons can also be heard while passing final order. Enquiry shall be conducted. The typed set of papers filed in this writ petition can be marked as an exhibit in the said Interlocutory Application. After hearing both the parties and conducting enquiry and if necessary by permitting them to adduce evidence, the said Interlocutory Application shall be disposed of on merits and in accordance with law on or before 10.04.2024. The respondents 4 to 6 are directed to enter appearance before the scheme Court on 27.03.2024 itself. I make it clear that I have not gone into the merits of the matter."

3.Challenging the said portion of the order, the appellants have filed this Writ Appeal.

4.According to the appellants, they are ready to approach the Scheme Court for getting further relief as held by the Writ Court. The Writ Court however

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held that the typed set of papers filed along with the writ petition can be marked as an exhibit. We set aside the said observation made by the Writ Court. If any I.A is filed, it shall be decided on its own merits and in accordance with law without being influenced by any of the observations made by the Writ Court.

5.This Writ Appeal stands partly allowed permitting the appellants to approach the Scheme Court seeking appropriate relief in accordance with law. No costs. Consequently, connected miscellaneous petition is closed.

[D.K.K., J.] & [R.V., J.]
27.03.2024

NCC : Yes / No
Index : Yes / No
Internet : Yes / No

Yuva

To
1.The District Collector,
Ramanathapuram District.

2.The Revenue Divisional Officer,
Ramanathapuram, Ramanathapuram District.

3.The Tahsildar,
Keelakkarai Taluk, Ramanathapuram District.

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D.KRISHNAKUMAR, J.

AND

R.VIJAYAKUMAR, J.

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